**UNREVISED HANSARD**

**NATIONAL COUNCIL OF PROVINCES**

**TUESDAY, 13 DECEMBER 2022**

***PROCEEDINGS OF VIRTUAL NATIONAL COUNCIL OF PROVINCES***

The Council met at 08:32.

The Chairperson took the Chair and requested members to observe a moment of silence for prayers or meditation.

The Chairperson announced that the virtual sitting constituted a Sitting of the National Council of Provinces.

The CHIEF WHIP OF THE NCOP: That the Council resolves that Rule 218(1), which provides inter alia that the consideration of a Bill may not commence before at least three working days have lapsed since the committee’s report was tabled, be suspended for the purposes of consideration of following Bills:

1. General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill [B18B-2022] (National Assembly – section 75); and
2. Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill [B15B-2022] (National Assembly – sec 75).

Question put: That the motion be agreed to.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West.

AGAINST: Western Cape.

Motion accordingly agreed to in accordance with section 65 of the Constitution.

# CONSIDERATION OF REPORT OF SELECT COMMITTEE ON FINANCE, AGREEMENT OF SOUTH AFRICA’S MEMBERSHIP TO THE ASIAN INFRASTRUCTURE INVESTMENT BANK (AIIB), DATED 09 DECEMBER 2022.

Mr Y I CARRIM: Chairperson, as we know, the NCOP as one of the two Houses of Parliament is required to approve any agreements that are negotiated by our government and the matter before us today is the Asian Infrastructure Investment Bank, as you’ve said, and it's before us to consider and then decide to ratify or not? Usually though, as you know, these international

agreements are secured before they come to Parliament so we usually look at the issues, raise our concerns where we do, but we normally vote for it and so it is in the case of this report, the majority of the committee is in support of it.

What is the issue? South Africa is buying shares for about 17,5 million for nonregional membership of the bank, and it has to do so by 31 December which is why we have to pass it today. There's an outstanding $4 million, you can multiply that by 17-and-a-half would be a callable portion. Now the minimum share for any country is 50 shares and is a nominal value of $5 million, and you can multiply that by 17-and-a half to get rand. Now it was formed in 2015 by 21 Asian countries led by China and 57 countries, including our own, as prospective founding members signed the initial Articles of Association. Currently, there are 93 members, 47 regional members, and 46 nonregional. Note that 46 are nonregional, and don't come from that area of the world. Twelve of the nonregional happened to be African, Algeria, Benin, Côte d’Ivoire, Egypt, Ethiopia, Ghana, Guinea, Liberia, Morocco, Rwanda, Sudan, and Tunisia. Now, there are many reasons for our participation in this bank, amongst them is strengthening our emerging business relationships in that region, and in solidarity with the South-South Cooperation, that's where our

country ... [Inaudible.] ... and obviously with China being there, we are moving away from our overdependence on the West and this is part of that.

As a nonregional power, South Africa will still be able to borrow money from the bank should we need it, and interestingly, one of its main focuses is what we doing, green infrastructure investment. 50% of its portfolio funding is allocated to that or is meant to be allocated to that. Also, we might get technical assistance and financing for our Clean Energy Transition Programme.

Now, we participated in the initial negotiations for the Articles of Association as well as the bank’s finalisation of the strategic and operational ... [Inaudible.] ... policies, and we must see this ultimately as part of our attempt to reduce our dependency on our colonial masters or mistresses, whoever they are in the west, and to take a much more nonaligned position, linking up with countries that we share much in common with in our struggles against colonialism and imperialism and countries of the South and that's what we need to do. So we are too locked into the West here. It's part of our looking East policy. No one complains when we take - well, the opposition parties never do or they don't seem to do, or

they're not ... [Inaudible.] ... by any means - loans from the World Bank and the International Monetary Fund, IMF, but when it comes to Brazil, Russia, India, China, South Africa, Brics, and joining organisations like this bank, the Asian Infrastructure Investment Bank, there's a bit of hoo-ha from them.

Now, all of this is not to say we are happy about the process, we expressed our strongest disapproval in our report that ... [Inaudible.] ... to the NCOP solely and we urged National Treasury to avoid this in future. The committee only agreed to process this agreement and approve it because the deadline to do so is 31 December this year, and the failure to do so will have major financial, economic, and political consequences, and it was decided the chairperson will write to the Minister of Finance, the Director-General of National Treasury, yourself, the Chairperson of the NCOP, Chief Whip and the NCOP Chairperson of Committee and Oversight to express our fundamental dissatisfaction.

Despite the strong reservations about the process, we supported it as a majority. Its value of it is not detracted from the rushed process. Now, we also want to say these are national agreements. They are signed between two countries.

There's no provincial angle here, so it's a very limited role that we as the NCOP can have in this. The Standing Committee on Finance on the National Assembly side has approved it and the National Assembly deals largely with foreign affairs issues. Yes, there are financial implications but we didn't plunge into it as a country. It took many years. We bought the minimum shares and we need to look at the bigger picture.

I thank you, Chairperson. I know, Chairperson that I've taken far less than the 10 minutes allocated to me, which is very rare for a politician. I take it that all the members are applauding resoundingly Chairperson. I take it that the advocate Phindela will take note that you owe me Chairperson about five minutes and I shall come back to it sometime in the future. Thank you very much, Chairperson.

The CHAIRPERSON OF THE NCOP: [Laughter.] Thank you very much, hon Carrim. I am sure people who know you very well will applaud this step ...

AN HON MEMBER: Malibongwe!

The CHAIRPERSON OF THE NCOP: ... that you are indeed moving in the right direction. [Laughter.]

Debate concluded.

Question put: That the Report be agreed to.

*Declaration(s) of vote*:

Ms C LABUSCHAGNE: Chair, this agreement will buy us membership into the to The Asian Infrastructure Investment Bank at a cost of 5 million US dollars. The agreement was signed in

December 2015, the month when we were juggling Finance Ministers in South Africa. Yet, it is only brought to Parliament now in order to make the 31 December deadline. It has been repeatedly put off because nobody wanted to deal with it. Article 1 of the Articles of Association reads as follows:

The purpose of the bank shall be to foster sustainable economic development, create wealth and improve infrastructure connectivity in Asia by investing in infrastructure and other productive sectors.

It goes on to talk about promoting regional co-operation in Asia. This is an Asian focus investment vehicle. As Treasury made their presentation to the committee, they clearly stated on slide number eight that:

South Africa’s participation in the AIIB was intended to be a symbolic gesture, geared towards strengthening burgeoning business relationships in Asian region.

So it is a 5-million-dollar symbol. Some basic research reveals that the AIIB has been called China’s answer to the IMF and now that we have this, it becomes clear that this is a 5-million-dollar tribute back to China. This is alarmingly similar to the donation that this ANC government wanted to make to Cuba, but was stopped by an application to the Constitutional Court. Now, 5-million-dollars may be less than one would find in the presidential couch, but it is still a lot of money. A lot of money to be put into a project as symbolic gesture, particularly the gesture they actually asked for was in fact 590 million dollars.

So as the gesture goes, it is a pretty weak one. This money should be spent locally on South African infrastructure projects, especially as the needs of South Africans is at all- time high, with ANC politics having brought the economy to its knees. The argument in the committee that this should be as a political tool, building relationship across the spectrum should be dismissed. South Africa cannot afford anymore of ANC’s ... [Inaudible.] ... Woza 2024! Thank you, Chair.

Mr Z MKIVA: Chairperson, the ANC wishes to make it very clear that the membership to the AIIB is a very strategic and a critical instrument for us to join as a country. In actual fact, to say it a symbol is actually understating the importance of this international instrument. Chairperson, I want to tell you and the members of this august House that there are more than 40 Members States from that region that are part of the AIIB, and there are more than 46 non-regional members which includes almost the majority of the African states that are part of this investment fund.

It is therefore very critical for one to look at it, not as a symbol, but rather as an instrument that has got substance in the sense that the 5 million that you may want to look at and

... [Inaudible.] ... is actually nothing when you look at the strategic long term goals and benefits for our national interests.

The Asian Tigers can never expect a donation from South Africa, an economy of our size. China alone, can never expect a donation from us. China is the biggest economy in the world. There is a strategic long term view on why we are deciding to join this. The ANC wishes to make this very clear that let us not look at this in a very narrow way, let’s look at it in a

very big way. Actually, the return on this investment will be greater.

I think what the DA is trying to do here is to put the cart before the horse and they are making presumptuous statements without looking at this strategically. So, I want to say that the ANC supports this on the basis of the fact that we are confident that we will have return on investment. I cannot belabour the point, Chairperson and the hon members, I think this is one of the international conventions and the progressive instruments that we ought to associate ourselves with.

This kind of a bank will help us in a very big way with the challenges that we have as we are now on a trajectory of reconstructing our own economy. This will go a long way. The Asian Tigers are very strategic for us. Thank you very much, Chairperson.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West.

AGAINST: Western Cape.

Report accordingly agreed to in accordance with section 65 of the Constitution.

# CONSIDERATION OF GENERAL LAWS (ANTI-MONEY LAUNDERING AND COMBATING TERRORISM FINANCING) AMENDMENT BILL [B18B-2022] (NATIONAL ASSEMBLY – SECTION 75) AND REPORT OF SELECT COMMITTEE ON FINANCE THEREON

Mr Y I CARRIM: Thank you, Chairperson. The General Laws Amendment Bill is part of the legislation that we are attending to, in response to the Financial Action Task Force, FATF, for the multilateral institutions. It requires of us to make changes, otherwise, there will be huge consequences of our country in respect of financial, economic and other respects. So, the first Bill that was passed is the amendments to the Financial Intelligence Centre, FIC, which was processed in this House about six weeks ago.

This Bill is a second, in fact, the third aspect of this process is the very Bill that will come to us immediately after our debate on this Bill, which is managed, of course, by our Justice Committee. Now, South Africa is identified to be failing in several respects, in respect of the Mutual Evaluation Report, MER, done in October 2021, and we were

found lacking in 20 of the 40 core recommendations on technical compliance, and failing, in 11, in fact, of these matters.

The result we have to process is, this piece of legislation before February 2023, when the plenary of FATF occurs. Now, the weaknesses, Chairperson, and mostly around the Anti-Money Laundering Processes, Combating of Financing Terrorism and the Proliferation Regulatory Framework. The problem is not just the legislation, they point obviously, to the practical issues, the lack of successful prosecutions, doses ques of corruption, freezing orders of funds, policy and operational documentation. They want action from us. So, passing the Bills in itself or themselves that is not going to satisfy them.

So, this Bill is against pieces of legislation falling under different portfolio committees and select committees and Trust Property Control Act, the Companies Act, the Non-Profit Organisation Act and the Financial Sector Regulation Act, are only one of the piece of legislation that falls under our portfolio. Chairperson and the Announcements, Tablings and Committee, ATC, we have reported on 10 December, and have asked members if they can look at what it is all about.

I just want to deal about the three main things, they are on public participation, inconsistency between this Bill and the pending Non-Profit Organisation Amendment Bill and Capacity. So, the first issue, obviously, we reiterate that this first fraction of the process, the National Treasury brought it so late to the Parliament, and we have close guided it at length. However, when the committee recognises that, it was only a year ago that, the final report was done by the FATF.

The National Treasury began engaging with various departments, because it is a multi-disciplinary, if you like, Bill. To take it through the Cabinet, the process, as you know, Chairperson, is quite strenuous and, you know, on all of us. The Bill was brought to Parliament in August 2022. Now, the committee believes that, ultimately, civil society stakeholders did more than enough time, Chairperson, to participate in the processing of the Bill. In fact, they did so until the day we voted on the Bill.

In fact, the day before we voted on the Bill, that’s last Friday, we’ve got a further submission from the church organisation. We invited them and told them to come, and that they will be given 15 minutes on Friday morning. We contacted the lawyer who wrote to us, but he declined. He said that he

doesn’t know where the Bill is, and we subsequently inserted their concerns into the report, and I will also be writing to them in the next 24 hours to inform them of what we did. But they were invited to speak.

The committee even agreed to meet with the stakeholders in Saturday afternoon or even if they wanted to, do it on Sunday. But they declined and said that, there was no need for that.

What is important, Chairperson is, to give the public adequate notice before hand of the public meeting. But this alone, we submit, doesn’t determine the quality value or effect in the public participation. It is that, instead of participation on the processing of the Bill, after the formal date of the public hearing, how seriously the committee takes the views of civil society stakeholders, and the number of hours spent on the Bill, among other considerations that also determines the quality of public participation.

The public participation still began, in fact, with the number of National Assembly process on 11 October, and it went through for the sake of process, which finally ended on last Friday, 09 December 2022. There is no evidence to suggest, Chairperson, and it is quite important that, the quality of arguments presented by the stakeholders could have been any

better, could they have been given more time to submit their initial presentations to the committee. This was suggested to the stakeholders when they were asked by the Chairperson, do you think that, if you could have had more time, you would they have provides a better set of arguments?

There was no reply to that. In fact, overall, several of them who checked the section of the committee processes said that, they are satisfied with the process. We were quite happy to have them engage to the very last moment. As I have said, one of them certainly did. Now, most of the changes, in any case that were made to the Bill in this tough process, emerged from the very submissions by the very same civil society stakeholders. So, they had significance towards the shaping of the Bill to discuss the process, even if not all their proposals were accepted.

It also has to be stressed, Chairperson, under section 75, and through this tough process, the Standing Committee on Finance in the National Assembly, that the mains shaping of this Bill has to occur. Of course, there are special circumstances that we all know, that requires the Bill to be processed before the Parliament ends this year, and so, the time allocated also have to be taken to account. A copy of this report,

Chairperson, was sent to be sent to the civil society stakeholders for recurrence, and they submitted two comments. So, they have a stake also in shaping the report.

Now, the point to stress, is the ability of participating civil society stakeholders to win the support on their proposals on policy and legislation that is before Parliament, can’t simply reside on technical arguments that they present to us, and they also, to some extent, are shaped by social will. To what extent they will have the support out there, how did they engage in creating public awareness of the cause or the issues that they feel strongly about, do they send petitions, do they do all sort of mass activities, do they have demonstrations, and so on?

These are also things that influence the outcome of what happens in Parliament and what happens in social media, the established media, pickets and mass demonstration. Those are also aspects of civil society activity that has shaped partly outcomes in parliamentary processes. Now, while the parliamentary committees need to take public participations seriously, Chairperson, and create space for the public, civil society stakeholders need to appreciate that, ultimately, it is the elected public representatives that makes final

decisions, and while playing an active and influential part in shaping the policies and legislation before Parliament, they cannot call legislature or call government.

So, we are way aware, of how acutely disruptive it will be, if we were to actually not pass this Bill before the end of the year. Inconsistency is the second issue between the Non-Profit Organisation Amendment Bill that is coming early next year and our Bill that is being attended to. The National Treasury has given their commitment. In fact, the Department of Social Development has been before us. They also said that they are aligning their Bill with what’s here. So, that matter has been addressed, that concerns the civil society structures.

They have all capacity, we all agree that, but there are serious concerns whether we could implement this Bill or not. We also agree with some of the things that the NPO said, and to some certain extend we also agree with some of the things that the opposition says, but we can’t be fatalistic, Chairperson, we can’t say, oh, we have no capacity, so, let’s not do it. There’s a bigger issue here, Chairperson, the consequence of not doing this, for our economy, for our finances, our banking institutions, our budget, service delivery and development. So, we would really trade off.

Also, there was a whole issue to the Bill, so, we instructed the National Treasury in our recommendations to work with these non-governmental organisations, work with them, where their skills have not been under the state sector, let’s draw on them without them taking over or co-governing. Why are we afraid of civil society and stakeholders? Progressive civil society stakeholders and those who’ve got technical skills, should be used by the structures of government.

We ourselves as the Majority Party, have said that, we don’t have all the capacity. We need support and we need cooperations. So, let us engage with civil society, while we are being weary about them. Sometimes, some of them would like to take over government. We also do not agree with the stakeholders’ recommendations, Chair, but the Financial Intelligence Centre should supervise and monitor the NPO sector, rather than the Department of Social Development.

The committee agrees that the FIC does not have the legislative capacity. ... [Interjections.] ... Thank you. On the matter of capacity we agree that, something has to be done. On the constitutional development, we agree that the Constitution has sound on the legal services itself. On the matter of capacity, let’s work together to get it done, rather

than whining and whinging. There are some things, Chairperson, finally, that require a national of interest.

If there’s any Bill that serves as an entire country, and all parties and all ideological and political spectrums in this one, it is deeply disappointing that, even when it comes to a text like this, Chairperson, where we need unity like never before, there’s a party or parties that are not happy with this Bill, and therefore, they oppose it. This doesn’t help our case. The FATF is going to say that, well, there are opposition parties that opposes it.

Why can’t we for once, Chairperson, work together in the country’s interest and our people’s interest across all our divides? Thank you, Chairperson. [Time expires.]

*Declarations of votes*:

Mr D R RYDER: Chairperson, the Bill before the House contains many sound components and is in fact long overdue. South Africans have seen the failings of our financial monitoring systems as nobody picked up the erroneous R14 million National Student Financial Aid Scheme, NSFAS, payment to Sibongile Mani. Nobody has queried the large sums of money that have flowed into politicians’ accounts during state capture. Nobody

asked why large purchases were made in cash by Malusi Gigaba or where Ace Magashule’s children found the money to buy cars valued at over R2 million each. Nobody commented when they saw the money looted from the Venda Building Society, VBS, Bank hitting the accounts of well-connected people. Our systems failed, and make no mistake, this has been seen by worldwide organisations like the Financial Action Task Force, FATF, that have also used the experience to point out some other glaring problems within our systems, particularly relating to nonprofit organisations, trusts and generally to beneficial ownership.

So, the introduction of a Bill was extremely necessary. Treasury had been working on one for some time but with little urgency until the threat of greylisting began to loom large.

Suddenly, the Bill was thrown together in haste and dumped on Parliament to deal with in a hurry, and as we have processed the Bill it has become evident that Treasury has in fact done a pretty good job in dealing with many of the issues.

However, like with many rushed jobs, there have been some things that have not been properly thought through. The example that has taken the most time to deal with was raised by the public participation process and related to the

reporting ... [Inaudible.] ... by those under the proposed legislation. In an admission of guilt, Treasury produced a B- version of the Bill in response, greatly reducing the burden that they had introduced.

While this goes a long way towards mitigating the problems, it does not get rid of them entirely, and under questioning in committee last week, it again emerged that practical issues around the implementation of the Bill have not been adequately thought through. The committee has agreed that unintended consequences will need to be carefully monitored and as part of the report has built in a regular review of the implementation of this Bill.

We agree that every effort must be made to try and avoid greylisting but because it was left so late we are likely to fall short of the mark. This Bill is sadly transparent as the difficulty with implementation will set us further back.

Passing a Bill that falls short will merely extend our grey stay and on that basis we cannot agree to passing the Bill. No amount of time pressure should force us to pass bad legislation. Thank you, Chair.

*Afrikaans*:

Mnr S F DU TOIT: Agb Voorsitter, ek sal definitief van die drie minute gebruik maak. Ek beaam my kollega agb Wessels se standpunt, waarmee almal saamstem, dat indien Suid-Afrika op die gryslys geplaas word, die effek daarvan verreikende gevolge, nie net vir handel in Suid-Afrika of ons ekonomie nie, maar ook vir handel met ander lande, sal hê.

Die hartseer realiteit is dat indien hierdie wetgewing wat op kort kennis in ons skoot geval het vir verwerking en aanvaarding, nadat die regering vooraf deeglik bewus was van die erns en implikasies vir nie-nakoming, wel vandag deur die Huis aanvaar sou word, Suid-Afrika volgens ’n verslag deur Business Leadership SA, BLSA, steeds ’n 85% risiko loop om wel op die gryslys te eindig.

*English*:

Why, one may ask? Why do we have the risk and an 85% possibility of ending up on the greylist as indicated by BLSA? The fact is that past behaviour predicts future behaviour and the ANC government’s track record for implementing plans and following through on legislation is not good. In fact, if these Bills are adopted today, this legislation ... the global FATF would want to see implementation results by February 2023.

During the previous mutual evaluation undertaken in 2019, it was found that South Africa was partially compliant or noncompliant with 20 of the 40 FATF’s recommendations. Twenty out of 40! How many of these failures were not only legislative shortcomings but as a result of the weakness of the criminal justice system and the absence of prosecution of crimes of money laundering and terrorism financing. Why does names like the Guptas, Schabir Shaik and Zuma come to mind?

*Afrikaans*:

Geen wonder dat daar veral tydens die Zuma tydperk en nou met Mnr Ramaphosa, soveel fokus geplaas word om bande met lande wat terrorisme in Suid-Afrika voor 1994 gefinansier het, te behou en skenkings aan hierdie lande te maak, of selfs daarop aan te dring dat Suid-Afrika deel van die Asiese Infrastruktuur Beleggingsbank word voor 31 Desember 2022.

Interessant, Voorsitter.

Slegs hierdie wetgewing sal nie voldoende wees om eerbare handel en antiterrorisme wetgewing in Suid-Afrika te bewerkstellig nie. Solank wolf skaapwagter is, sal die lammers gewetenloos opgevreet word. Dankie, Voorsitter.

*English*:

Mr M S MOLETSANE: Chairperson, South Africa has long been a hub of international money laundering and terrorism financing for many years because government did not understand the complexities of illicit financial flows, base erosion and profit shifting. It became clear that some in the governing party had not even heard of that phenomenon when the EFF raised the matter during a state of the nation debate in 2014. When the EFF made its submission to the Davis Tax Committee in 2016, we presented evidence from credible sources to demonstrate that South Africa and the African continent were losing billions of dollars in revenue through illicit flows, base erosion and profit shifting.

South Africa alone loses just under 90 billion every year. This is enough to fund free quality and decolonised education. We know that those on the benches of the governing party are not interested in fixing this crisis because they are part of the problem. They know that the millions of dollars found in the mattresses and sofas of the President are part and parcel of illicit financial flows.

In the ... [Inaudible.] ... of the Bill is that we must tighten the antimoney laundering and combatting of terrorism financing laws because we are now part of the International

Monetary Fund, IMF. The Eastern and Southern Africa Antimoney Laundering Group and the FATF is extremely misguided. The amendment in the Bill ignores the elephant in the room. We need decisive, coherent and clear legislation, starting with legislation to deal harshly with illicit financial flows.

However, we will not resolve the problem of money laundering and of combatting terrorism financing, which remains a subarea of broader illicit financial flow activities which clearly ... that prevention and combatting of corrupt activities is failing to deal with.

We maintain that the Presidency must institute a judicial commission of inquiry in terms of section 84 of the Constitution to look specifically into illicit financial flows since 1994. [Inaudible.]

Mr Z MKIVA: Chairperson and hon members, I think when Bills are made and passed, the intention is to have a clear legislative mandate and it is important for hon members not to always read a Bill in isolation with the broader spectrum of

... [Inaudible.] ... what the framework of the Constitution provides.

If you look at it in detail, this Bill is actually a very progressive Bill. I think the issue which is being raised about time and the hastiness with which it was processed should not take us away from the ball in terms of the contents which are provided in the Bill. There is no question that this Bill is progressive and we must always be careful of undermining the experts. The Treasury department has got a group of experts with experience over time and therefore if you look into the constitutionality of the Bill there is no question that it is very sound and it points exactly and actually to the direction in which some of the opposition members are raising. It is not looking away. It is actually intended to confront that which they are also raising. The only issue that they are talking about is that there was a need for enough time and there was a need for more public consultation. We are in agreement that of course we would have loved a situation wherein there must have been ... maximize the question of ensuring that there is broader consultation on the matter. However, as the hon Carrim said, there is no empirical evidence which has been given to us which shows that if that time was even given there would’ve been more contributions which we would’ve received which would’ve actually changed the texture of what we now have.

As it were, the ANC supports that we cannot afford to postpone or to defer this Bill. It has to go through right now because we are dealing with the matters which are entailed right now. I want to say that a Bill is a living document as an Act is a living document and the intentions are very clear in what it intends to do. I think that is what we need to be focused on and if there could be a need in the future that it needs further enrichment and strengthening then that could be done at that given point. The ANC has no doubt that this Bill will help us in terms of pursuing our national interest in the best interest of the aspirations of our people. Thank you very much, Chairperson.

Question put: That the Bill be agreed to.

[Voting - Take in from minutes]

Bill agreed to in accordance with section 75 of the Constitution.

# CONSIDERATION OF PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST TERRORIST AND RELATED ACTIVITIES AMENDMENT BILL [B15B- 2022] (NATIONAL ASSEMBLY – SECTION 75) AND REPORT OF SELECT COMMITTEE ON SECURITY AND JUSTICE THEREON

Ms S SHAIKH: Thank you very much, hon Chairperson, and greetings to all hon members, the Protection of Constitutional Democracy Against Terrorist and Related Activities Amendment Bill [B 15B-2022] also known as the Pocdatara Amendment Bill was referred to the Select Committee on Security and Justice on 29 November 2022, the committee reports that it has agreed to the Bill without proposed amendments. The Amendment Bill aims to bring the Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004, in line with developments in international law, to give effect to certain Constitutional Court judgments and to address certain challenges in conducting investigations and prosecutions. The Bill addresses the findings made by the 2019 mutual evaluation conducted by the Financial Action Task Force, FATF.

South Africa scored poorly in the evaluation with serious deficiencies in 20 of the 40 recommendations as well as 11 effectiveness measures. South Africa was put under an intensive observation period of one year by the FATF, which ended in October 2022. South Africa is now expected to submit a follow-up Post-Observation Period Report, to report on progress made to address the deficiencies. To address the technical compliance deficiencies, the Pocdatara and Related Activities Amendment Bill and the General Laws (Anti-Money

Laundering and Combatting Terrorism Financing) Amendment Bill, 2022 were submitted to Parliament for processing. The Pocdatara Amendment Bill addresses two of the 20 technical compliance measures and is a fundamental component to avoid the country being grey listed.

Hon Chair, on 28th November 2022, the Minister of Police addressed a letter to the committee requesting that this Bill be dealt with as expeditiously as possible to prevent South Africa from being grey listed by the, FATF. The first briefing to the Committee by the Deputy Minister of Police was also held on 30 November 2022. The committee advertised the call for written submissions, and requests for oral hearings, from

30 November 2022 to Tuesday, the 6th December 2022 on Parliament’s media platforms. In addition to advertising the Bill for comment, the Committee requested participants, that made submissions during the NA process, to comment on the B- version of the Pocdatara Amendment Bill.

The committee received six written submissions from the public and to further facilitate meaningful public participation, the committee hosted public hearings on 7 December 2022 and three organisations made oral presentations to the committee. The committee also met with the Institute for Security Studies to

gain an in-depth understanding of the background to the Bill as well as developments with regard to terrorism in the region and the continent.

On the 8th of December 2022, the committee proceeded to receive the Departments responses to the written submissions. The thrust of all the submissions made to the committee were in relation to the following key issues:

Definitions and offences unjustifiably impact on the constitutional rights to freedom of religion, freedom of expression and freedom of association;

That the proposed clause prohibiting the publication of unlawful terrorist content be returned to the Bill as this is an important tool for preventing the radicalisation of South Africans;

There were objections to the removal of Section 1(4) of the Principal Act; the removal of the phrase, “including any action during an armed struggle”, this would immediately remove any possibility for acts of violence from being condoned under S1(4), and therefore open up the definition to easily prosecute anyone engaging in any acts of violence;

That Parliament introduces a humanitarian exemption clause in order to protect impartial humanitarian action carried out by trusted humanitarian and impartial organisations; and The definition of Terrorist Activity was considered to be too wide, vague and broad.

Some of the responses and committee deliberations related to:

That the definition ‘terrorist activity’ should be read in its entirety. The definition seeks to explain that there needs to be a link between the activity that can cause harm and the intention to achieve the objectives. If activities lack the necessary terrorist intent which is usually aimed at terrorizing the civil population or government, it cannot be considered as terrorism under the Act. If one element is missing, the crime is not established. The circumstances and evidence of each particular case, will have to be looked at, to arrive at a conclusion. Prosecution under Pocdatara is only possible with the written authority of the National Director of Public Prosecutions.

Freedom of religion, expression and association are rights that are protected in terms of the Constitution of the

Republic of South Africa, but are not without limitation in terms of section 36 of the Constitution.

The wording “including any action during an armed struggle”, means that these acts are excluded from the definition of terrorist activity and shall not be considered as a terrorist activity. The removal of section 1(4) was to align the Principal Act to developments in International law since its adoption, for example the Geneva Conventions and Additional Protocol I and II - Relating to the Protection of Victims of International and Non-International Armed Conflicts - as well as a recommendation in the Mutual Evaluation Report of the FATF Publications with terrorist related content, can be prosecuted within the current Act under section 14 of the Principal Act.

Organisations like the Red Cross renders humanitarian assistance to victims of armed conflicts, and these cannot remotely fall within the ambit of the terrorism financing. Immunities are recognised for such organisations in terms of international law, and exempt it from having to testify in criminal proceedings of tribunals and domestic courts. The National Director for Public Prosecutions must authorise all

terrorism financing prosecutions, thus sufficiently safeguarding against any potential abuse.

The Bill addresses the recommendations of and guidance from oversight structures, especially from the 2018 report of the UN-Counter-Terrorism Executive Directorate and the 2021 Mutual Assessment Report of the Eastern and Southern African Anti- Terrorism Group and the FATF.

The Principal Act has to be brought in line with developments in international law as well as oversights by the courts.

After due consideration of the submissions and the department’s response to the submission, the committee was satisfied that the issues raised had been adequately addressed by the department and the committee reached consensus on the Bill and that the Bill did not require further amendments.

Hon Chair, during the deliberations on this Bill, the committee has been acutely aware of the dire consequences of South Africa potentially being grey listed and the importance of processing this Bill timeously. Amongst these consequences is that a country that doesn’t remedy its deficiencies adequately, risks being identified publicly by the AFATF as a jurisdiction with strategic deficiencies. Such a public

identification will have severe and adverse economic consequences for trade and transactions with other countries.

The committee has therefore given all its time and attention to this Bill. We are grateful to the public for their comments and engagements on the Bill. We are pleased that the Bill is indeed a well thought out, effective piece of legislation that is in line with international laws and which will go a significant way in the prevention of terrorism to give effect to international instruments dealing with terrorist and related activities.

Hon Chair, the Select Committee on Security and Justice, having considered the Protection of Constitutional Democracy Against Terrorist and Related Activities Amendment Bill [B15 B

– 2022]), referred to it and classified by the JTM as a section 75 Bill, reports the Bill, without proposed amendments, for the National Council of Province’s consideration. I thank you very much, hon Chairperson.

Debate concluded.

Question put: That the Bill be agreed to.

*Declarations of Vote:*

Mr G M MICHALAKIS: Hon Chairperson, the DA in House believes that the Bill before us today is, in essence, not a bad piece of legislation. We thank the International Space Station, ISS, for their massive contribution in the process of arriving at this Bill. However, the flaws contained in it are serious. The definition of a terrorist act in this Bill merely contains harm, as an element of the crime.

To give an indication of how wide the term is, harm against a person can be anything, from an unkind word to murder.

Violence and intimidation, along with other aspects, must be elements of the crime of terrorism.

There are certain aspects in part a of the definition that don’t cover violence and intimidation and there are also certain aspects in part b of the definition that don’t cover violence and intimidation.

Therefore, there are some acts that don’t meet the requirements of violence and intimidation that can be defined as a terrorist act, in terms of this Bill. This is madness and opens it up to serious abuse. It is argued that the use of the term “harm” is there to cover cyber terrorism, but it is not

only the cyber terrorism aspect that has mere harm as an element. It is a very, very dangerous path to go down.

There also seems to be no mechanism in place in this Bill that will safeguard those giving humanitarian aid, since these stipulations were removed from the earlier Act’s section 1(4). The committee should have spent more time on this, considering it more carefully.

Finally, I warned at the beginning of the public hearings that the process should not be a rubberstamp exercise like the Electoral Amendment Bill was. I still believe, despite the submissions from the department and reassurance from the committee that there was a deadline to stick to. This Bill had to pass without amendments through the NCOP, to prevent it going to the NA, at a record speed.

Amendments to make it a better law had to be avoided at all costs, because the NA will not be extending their timeline and we would miss the train to avoid greylisting. This was the real reason why the Bill is before us in the form it is today.

I feel sorry for our chairperson for being placed under such pressure from the ANC every time. The NCOP and the select

committee, in particular, has once again bowed under pressure from the executive branch and the NA’s lack of regard for time.

At our core, we are supposed to be good lawmakers. I know that not all have the capacity to be that, but for those who do in this regard, seriously failed in this Bill in ensuring that we pass the best possible Bill for the sake and the interest of the country. We cannot support this Bill. Thank you.

*Afrikaans*:

Mnr S F DU TOIT: Agb Voorsitter, die VF Plus is op rekord dat terorisme beveg moet word. Die Wysigingswetsontwerp op die Beskerming van die Grondwetlike Demokrasie teen Terrorisme en Verwante Aktiwiteite is belangrik, om die internasionale gryslys te vermy, maar ook vanweë die wesenlike gevaar van terrorisme in Suid-Afrika.

Die Julie 2021-onrus spreek hiervan - individue in die regeringstrukture en gesagsposisies, wat tereur beplan het en ’n poging aangewend het om die land te destabiliseer. Wat was hieride aksie anders as terrorisme?

Die ANC-regering kan nie met sekekere gedeeltes van hierdie wetgewing vertrou word, in die lig van die huidige politieke situasie in Suid-Afrika nie, aangesien hierdie wetgewing as politieke wapen gebruik kan word om opposisiepartye en die burger, in persoon of groepering in die land, te teiken.

*English*:

The ANC can misuse certain sections of this Bill as a political weapon, for instance, the replacement of subsection

5 of the Bill, that reads as follows: ”Notwithstanding any provision in any other law, and subject to subsection 4, a political, philosophical, ideological, racial, ethnic, religious or any similar motive, shall not be considered for any reason, including for purposes of prosecution or extradition, to be a justifiable defense in respect of an offence of which the definition of terrorist activity forms an integral part.”.

We, as the Freedom Front Plus have a political responsibility to ensure that the ANC be removed from power, to the benefit of the country. With this legislation, in its amended form, government can act against any political party or person that opposes the ruling party openly. This legislation reminds of similar legislation in China, where the democratic right of

individuals is undermined and their freedom of speech, freedom of association and freedom to choose is prohibited and regulated.

*Afrikaans*:

Dit is onthutsend dat die regering op hierdie wyse, wetgewing wat veronderstel is om die burger te beskerm kan misbruik, om enige persoon, kerk, politieke party en burgerlike organisasie te onderdruk en te smoel, om as diktator te regeer en om in werklikheid, sy ware kleure as onderdrukker te toon.

Tot op hede het die ANC keer op keer bewys dat hy wetgewing vir eie gewin misbruik. Die probleem is dat daar persone is, wat dade van tereur gepleeg het en as terroriste geidentifiseer is, wat vandag ter ondersteuning van hierdie wetgewing gaan optree. Die VF Plus kan nie hierdie wetgewing ondersteun nie.

Ms B M BARTLETT: Hon Chairperson, ss the ANC, we support the amendments in the Protection of Constitutional Democracy Against Terrorist and Related Activities Amendment Bill, which is commonly referred to as the Pocdatara Bill. The Bill, amongst other things, intends to delete, amend and insert certain definitions for purposes of alignment with

international instruments adopted upon implementation of the Act; to provide for offenses related to terrorist training and the joining an establishment of a terrorist organisation; to provide for offenses related to foreign travel; to provide for offenses in respect of possession and distribution of publications of unlawful terrorism related content; to provide for authorisation to be obtained from the Director of Public Prosecutions, in respect of the investigation and prosecution of certain offenses.

We have provided for public comments on the Bill and received comments from the public. We appreciate the comments that we have received, as they help in entrenching the principle of representative and participatory democracy.

In the end, we have considered the public comments ... [Interjections.]

Mr K MOTSAMAI: Chairperson, on a point of order: I just want to know where hon Bartlett has ever seen an unlawful terrorist.

The CHAIRPERSON OF THE NCOP: That is not a point of order.

Ms B M BARTLETT: In the end, we have considered the public comments, as they assisted in the building of common consensus on the Bill. Our support for the amendment to the Bill is informed by the imperative to create a safe Africa and a better world.

We are of the firm view that acts of terrorism and related activities militate against the stability and development of our country, the continent and the world. We are mindful that terrorism or acts of terrorism are evolving with time and that there are different manifestations of terrorist activities that the world continues to experience and as such, it is necessary to update the definition of terrorist activity in the Act, hence, the amendment in the Bill. Indeed, the world has changed drastically since 2004, which has been compounded by developments in information and technology.

The image and integrity of our country, amongst the communities of the nation will be harmed, if we do not act decisively and on time in combatting acts of terrorism, within and outside our country. The protection of the integrity of our country will go a long way in safeguarding the confident and trust that nations of the world have in our country.

We cannot afford to be a country that terrorists and terrorist organisations identify as their base to further their illegal activities. Once again, the ANC supports the Protection of Constitutional Democracy Against Terrorist and Related Activities Amendment Bill. I thank you.

Bill agreed to in accordance with section 75 of the Constitution.

# CONSIDERATION OF REPORT OF SELECT COMMITTEE HEALTH AND SOCIAL SERVICES - LIST OF RECOMMENDED CANDIDATES TO SERVE ON THE INDEPENDENT TRIBUNAL FOR SOCIAL ASSISTANCE APPEALS, DATED 07 DECEMBER 2022

Ms M N GILLION: Hon Chairperson and members of the NCOP, the National Assembly and the National Council of Provinces recently held a joint meeting wherein we were briefed by the Department of Social Development on the appointment and composition of the Independent Tribunal for Social Assistance Appeals. The Tribunal for Social Assistance Appeals allows for SA Social Security Agency, Sassa, decisions to be challenged so that the government’s constitutional obligation to provide access to social security is carried out. The Tribunal is constituted in terms of section 18(2)(b) of the Social

Assistance Act of 2004. This simply means that people who are not satisfied with the rejections of their social grants applications have the right to request that Sassa reconsider its decision. It is important to note that the request for Sassa to reconsider its decision must be made within 90 days of an applicant being informed of the outcome of their application or appeal.

Currently, the Department reports that for the period 1 April to 30 September 2022, Sassa received 981 562 grant applications of which 887 628 were approved. During the same period, the Tribunal received a total number of 2 591 appeal applications. In this regard, as parliamentary committees, we will ensure that the department adjudicate the appeals within the stipulated 90 days.

In its presentation to Parliament, the department indicated that due to direct access now provided to appellants, the number of appeals received by the Tribunal increased significantly from an average of 150 to 750 per month based on the appeals received since implementation of the Social Assistance Amendment Act. The department indicated that a total of 14 medical practitioners and 20 legal practitioners

are accordingly recommended for appointment as members of the Independent Tribunal.

Parliament therefore welcomes the appointment of the qualified

14 medical practitioners and 20 legal practitioners recommended qualified persons to serve in the Independent Tribunal for Social Assistance Appeals. I thank you, Chairperson.

Debate concluded.

Question put: That the Report be agreed to.

In favour: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly agreed to in accordance with section 65

# FAREWELL SPEECHES

The CHAIRPERSON OF THE NCOP: Thank you very much, hon Lucas, and greetings once again to all the members, Deputy Chairperson and hon House Chairpersons, hon Chief Whip, hon permanent and special delegates, ladies and gentlemen, lest I

somewhat fail to do so at the end of this short address. I take this opportunity to wish all delegates a happy festive season and a prosperous new year. Hon members, we are left with about 14 months before the end of the Sixth Parliament.

The pre-empt of the Constitution contains our national aspirations which inspire the work of this Parliament. They include that we must heal from the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights. In this context, the National Council of Provinces has a constitutional responsibility to represent the interests of the provinces. It also provides for the representation of the different categories of municipalities in Parliament and plays an important role in overseeing co-operation amongst the different spheres of government.

To do this, the NCOP makes use of a number of mechanisms, which includes committee work, member debates, public participation and parliamentary diplomacy. Including some of the highlights of the work of the NCOP during the 2022 calendar year, there is a question on debate on Bills. ...

[Inaudible.] ... mandate this year, the NCOP dealt with ordinary policy debates report on Bills, including the

following: The debate on the 2021 Women’s Charter for Accelerated Development, the debate on the state of capacity focusing on building a developmental state to take the lead in building a better life for all; the debate on Human Rights Day focusing on the rights to equality to reducing poverty and inequality, addressed by the President of the Republic on a devastation caused by catastrophic flooding along part of the eastern coast, which includes, amongst other things, Eastern Cape as well as KwaZulu-Natal, the debate on Youth Day, focusing on promoting sustainable livelihoods and resilience of young people in South Africa for a better tomorrow; debate on restoration and modernisation of our rail infrastructure, debate of Local Government Week, debate of indigent support focusing on subsidisation of basic services to indigent households, debate on cross-border and trans-national crime, focusing on waging a concerted battle against cross-border and trans-national crime, and the debate on waging a concerted battle against the killing of councilors.

The pieces of legislation we passed this year include finance Bills and appropriating finances to government departments, and allocation of revenues to the three spheres of government. Other Bills considered and passed include Employment Equity Amendment Bill, the Criminal Law Forensic Procedures Amendment

Bill, the Children’s Amendment Bill and the Financial Sector Bill.

The Bills we passed are meant to contribute to the improvement of the quality of life of the people. We also considered and adopted a number of report of select committees, including the report of the Select Committee on Trade, Industry Economic Development, Small Business Development, Tourism, Employment and Labour on engagement with national, local and provincial development agencies on strategies to boost economic growth, attract investments and boost job creation in the Eastern Cape.

The board of the Joint Committee on Ethics and Members’ Interest regarding the 2021 Register of Members’ Interest, in particular, the issue of late disclosure in contravention of Code of Ethical Conduct and Disclosure of Members’ Interests. The report of the NCOP provincial whip which took place in March focusing on assessing the state capacity to respond to needs of communities. The report of the Select Committee on Finance with regard to the protocol amending the agreement between government of the Republic of South Africa and the government of the State of Kuwait for the avoidance of double taxation and the prevention of fiscal evasion with respect to

taxes on income. The report of the Select Committee on Petitions and Executive Undertakings in relation to the executive undertakings may, by the Minister of Health, Social Development, Transport and others during the sittings of the House.

The report of the Select committee of Co-operative Governance and Traditional Affairs, Water and Sanitation and Human Settlements relating to the withdrawal of interventions issued in terms of section of 131(b) of the Constitution in the Maluti-a-Phofung and Mahube local municipalities. The notice of interventions in terms of section 139(7) of the Constitution and section 150 of Local Government Municipal Finance Management Act in Mangaung Metropolitan Municipality and Enoch Mgijima Local Municipality.

The notches of section 139(1)(c) regarding Ditsobotla Local Municipality in an attempt to support the observance and appearance to the principle of co-operative governance and intergovernmental relations as articulated in the Constitution. The report on Select Committee on Finance on the 2022 Revised Fiscal Framework and Revenue Proposal, and the report on Select Committee on Appropriation ... [Inaudible.]

... expenditure and performance of the Performance

Partnerships Grants for provinces, expenditure and performance of the land care programme grant, expenditure and performance of the learners with profound intellectual disabilities and maths, science and technology grants.

We also received notice of the statements in terms of section

106 of the Municipal Systems Act in relation to Mohokare, Emalahleni, Mkhondo and Dr Pixley Ka Isaka Seme local municipalities. And on the progress on investigations in the Dihlabeng and Mohokare local municipalities section 106 of local government municipal systems act provides that the NCOP must receive a copy of the report of an investigation in relation to nonperformance and maladministration in a municipality.

These reports go a long way in helping us to promote good governance. On house resolutions, a total of 21 resolutions were adopted by the NCOP and communicated to the relevant Ministers. We continue to follow this up through the office of the Secretary of the NCOP. Executives responses to the House resolutions are critical to the enhancement of oversight and accountability. On Ministerial briefings, we convened a number of Ministerial briefing sessions including the following. On Police ... [Inaudible.] ... “Progress in Addressing Crime and

Building a Co-ordinated Approach to Crime Prevention and Control.”

On Water and Sanitation, focusing on progress in validating the gaps in the provision of water and sanitation. On human settlements, focusing on progress in developing integrated and sustainable human settlements. On illegal mining, focusing on matters to wage a concerted battle against illegal mining - the “Zama zama” as we all know and are familiar with. And on the township economy and industry focusing on measures to unlock full potential of the township economy and/or industries.

On international agreements and participation, a total of four international permit were considered and adopted by the Council, including the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa in terms of section 231(2) of the Constitution. Our delegation undertook two international trips, namely the 60th African, Caribbean, Pacific and European Union and Joint Parliamentary Assembly in France when delegations expressed its position with respect to the ... [Inaudible.] ... and called for the promotion of dialogue and mediation through peaceful means. And two, the study taught

the House of the ... [Inaudible.] ... Parliament to engage on, amongst other things, institutional arrangements that have been instituted to guide the role of which in assisting the national council there in the implementation of its mandate.

On public involvement, with lifting of restrictive measures necessitated by the fight against COVID-19 pandemic, we improved people involvement in the processes of the NCOP during the work of the committees. The Women’s Charter fought back the sessions and other engagements. The successful hosting of Taking Parliament to the People programme in the Ugu District Municipality in KwaZulu-Natal piloted the importance of sustaining our conversation with the people on matters of development and the need to enhance co-operative governance. On questions, this year the NCOP made history for the first time in the life of the NCOP and its predecessor the senate. We exceeded the 1 000 mark in terms of questions for written replies. The total for the year stands at 1 065. In 2021 the total number was 713 and in 2020 it was 862. This is confirmation of ... [Inaudible.] ... hold the executive accountable.

In conclusion, there is a lot we have done, but there is still a lot that we must still do. As Madiba said that after one

climbs a great hill, one finds out that there are many more hills to climb. Fortunately, more and more delegates are getting more alert and sharper. This bodes well for the fight against the root challenges of poverty, unemployment and inequality. I thank the fellow ... [Inaudible.] ... the Chief Whip, chairpersons of committees, the Whips, delegates, representatives of the SA Local Government Association and the leadership and staff of Parliament administration, for a job well done.

We made it in spite of the fire that threatened to deliver negative impact on our work at the beginning of the year. Let me also take this opportunity to extend condolences to the Secretary to Parliament for the loss his mother on behalf of the National Council of Provinces. We say that may her soul rest in peace. May the Secretary to Parliament and the family find strength during this difficult and trying time and period.

Once again, I wish you all a joyous festive period and please ensure that you have safe travels around our beautiful country at this time of the year. So, let’s ensure that we arrive safe and we drive in a way that ensures maximum safety for all our citizens and our people. Thank you very much.

Ms M O MOKAUSE: Thank you, Deputy Chair of the Council. Deputy Chair, we bid farewell at the backdrop of yet another year where the poor and working class are facing exceptionally difficult time in South Africa. The year 2022 marks a year where our people had to deal with the series of events which dramatically changed the conditions of our people, many of which are still unfolding.

Deputy Chair, it is unfortunately not possible to list all the challenges faced as it would take us the entire recess period to do so. However, what comes to mind, Deputy Chair, is how black people end another year stuck in high levels of crime, poverty and unemployment. As if that is not enough challenging, earlier this year in April, days of heavy rain across the South African ... [Inaudible.] ... part of this country resulted in deadly floods. Today, we are reminded how this government failed to manage a manmade course of this flood and further failed to manage its aftermath for there has been no urgency shown regarding the challenges faced by victims of this flood across South Africa.

Deputy Chair, under the watchful eye of Parliament, the Department of Human Settlement has failed to find any urgency in placing victims of this flood in proper shelters. They

opted for community hall, which is inhumane. Instead, they snap calls made for land provision made by the EFF and our people remains without the land. Deputy Chair, the scourge of gender-based violence also remains a challenge as the rate at which women and children are abused, violated and killed in this country remains unacceptable.

Persons living with disability continues to lack access to adequate health, basic education with no prospects of securing employment. The past couple of years, Deputy Chair, has been a dramatic reversal of the gains made in the fight against HIV and Aids in South Africa with increases in the number of new infections. We also face an energy crisis with planned and unplanned power outages which are as a result of the aging infrastructure which has had a negative impact on the already ailing economy of this country.

Deputy Chair, reports of corruptions amongst government officials remains our lived reality with ANC top officials undermining state institution at every turn. We’ve had a battle of massive backlog in infrastructure which is a common theme across all South African municipalities undermining any ability to deliver on their developmental mandate. Deputy Chair, our roads in this country remains pothole ...

[Inaudible.] ... simply because there is no capacity and political will to deal with the problem of the ailing road infrastructure The head of state, Mr Cyril Ramaphosa, has still not taken any belief step against cadre deployment, instead he sleeps on mattresses filled with dollars on his Phalaphala Game Farm while South Africans continue to be unemployed, continue to die of hunger, continue to die of illnesses that are supposed that we are supposed to be prevented even before they could reach that stage.

Deputy Chairperson, today we reflect back on yet another challenging year for black people in particular in this country. A sad reminder of all that we had have had to endure this year alone under the watchful eye of Parliament which is unable to hold the executive to account for their destructive actions. However, as the EFF we remain resolute, Deputy Chair, in advocating for a just society which will redistribute land equally, rebuild health, rebuild education, water infrastructure and address the unemployment crisis faced by the South Africans. Our wish as we close this year, is for Members of Parliament to grow conscious and do better in terms of making this Parliament accountable to the people of South Africa.

In closing, we want to wish all South Africans, Africans and members of the diaspora for a safe and peaceful festive season as we continue to fight for the total emancipation. To the EFF ground forces, we want to wish you a safe and peaceful holidays. We would like to take this opportunity to thank each and every one of our fighters for all their efforts in the fight for economic emancipation in our lifetime. The fight for economic freedom continues. We have reached 1 million in one year, fighters. That is a clear sign that we are indeed taking over the government come 2024. Thank you, Chairperson.

*Afrikaans*:

Mnr S F Du TOIT: Agb Voorsitter, na die verlore jare van 2020 en 2021, het die sogenaamde hersteljaar, 2022, gekom en gegaan. Ons het almal vanjaar hoogte- en laagtepunte beleef. Die leë stoele van geliefdes wat die afegelope drie jaar aan die dood afgestaan het, hetsy dit weens Covid-19, motorvoertuigongelukke weens swak padinfrastruktuur of misdaad was, herhinner ons dat ons die tyd moet uitkoop.

*English*:

We look back at a year in which committee personnel, researchers and assistants excelled in preparing meetings and supporting members in effectively doing their oversight role.

We acknowledge the important role of the interpreters, legal minds and all parliamentary personnel. We hope you enjoy your well-deserved rest over the festive season.

*Afrikaans*:

Dankie, aan ons eie politieke adminstratiewe personeel, assistente, navorsers en mediaspan, julle is inderdaad staatmakers.

*English*:

Without the parliamentary Budget Office, the National Treasury staff, Financial and Fiscal Commission, FFC, and others, we would not have been able to compare different views and share in the insight that you bring to the Table. Thank you for all your time, effort and patience. It is appreciated.

*Afrikaans*:

Dankie aan die media wat van oorsigbesoeke, kommiteevergaderings en huissittings met valkoë dophou en berriggewing aan die burger doen. Dankie, dat julle ons as LPs en verteenwoordiges, nie net van politieke partye nie, maar ook verteenwoordiges van die burgery, verantwoortbaar hou en verseker dat die waarheid met die wêreld gedeel word.

Dankie aan kollegas, vir ondersteuning en advies gedurende die jaar. Dankie aan ons gesinne, in baie gevalle is hulle die persone wat die meeste moet opoffer, om ons as politici staande te hou. Dankie vir die ondersteuning wat jul bied.

Dankie, aan die kiesers, die persone wat jul stem aan ons toevertrou het, om namens jul te veg vir geregtigheid, regverdigheid en ’n voortbestaan vir minderhede in Suid- Afrika. Dankie, vir jul volgehoue gebede en ondersteuning. Dankie dat soveel van julle, jul hoop in die VF Plus geplaas het, dat ons namens julle, die vyand in die oë kan kyk, die onderdrukker in die bek kan ruk en die namens julle, met persing, deursettingsvermoe en passie, voort beur vir ons volk en minderhede!

Dankie aan die Liewe Vader vir Sy beskerming. Dankie, dat ons van U afhanklik mag wees. Dankie dat U, drie-enige God, die enigste is wat gevrees mag word. Dankie vir u belofdes in u Woord. Dankie dat ons daarin bemoediging mag kry. Dankie, vir die wete dat U altyd met ons is, ons vooruitgaan en dat U die stryd vir ons stry. Ons moet net gewillig wees. Met my God loop ek ’n bendestorm, met my God spring ek oor ’n muur.

Selfs jong manne struikel en val, maar die wat op die Here vertrou, kry nuwe krag.

*English*:

South Africa as a country faces a challenging few months that lies ahead. You must keep the faith, fight the good fight and hold fast to the Lord.

*Afrikaans*:

Suid-Arika, hou vas aan Psalm 50:15: Roep my aan in jou dag van benoudheid, Ek sal jou uitred en jy moet My eer” Volhard tot die einde en behou die hoop. Ons het ’n gemeenskaplike doel – oorlewing. Ons bid jul ’n geseënde Christusfees toe. Dankie.

Mr N M HADEBE: Honourable Chairperson, Members of Parliament, and all members of our parliamentary support staff. On behalf of our leader in Parliament, His Excellency Prince Mangosuthu Buthelezi, and the entire IFP Parliamentary Caucus, I want to thank you all for your work in ensuring that parliament as an institution conducted its business and delivers upon mandate amidst a challenging and trying year.

The past year has shown us that we as a people have a lot of work to do to bring about prosperity and dignity to our people. When we last parted ways for our recess period last year December, we would not have ever imagined that the buildings of Parliament would face severe damage.

Unfortunately, the slow pace in which we have attended to the damage has unfortunately become a characteristic of service delivery performance. For many, the burning of Parliament lacks significance in the democracy in which they so sorely fought for as hunger, thirst and electricity is of greater priority.

Let us not forget the added disappointment by the people of KwaZulu-Natal and the Eastern Cape as the response to rebuilding their lives from the damaging floods have left them with little hope and confidence in the government. Colleagues, as we go into the Christmas and festive season, let us encourage safety of all our citizens, let us be mindful of the sheer hunger people are facing, remember the lost lives as we join hands in prayer at the dinner table. This is a time we need to take time to reconnect with our values, ethics and responsibility to our communities. It has been an honour and a privilege to have worked alongside colleagues who understand

that ours is often a difficult task that often filters across party lines and in the interest of our citizens.

When the time comes to say goodbye to 2022, we must commit to a 2023 that will challenge and test our abilities to collaborate and bring through legislation that will reduce our unemployment rate. Many of us will not stop working during this period, but I urge us all to spend some time with our loved ones and recharge for the new year.

Finally, a serious challenge within Parliament is protecting cadres as a priority over our constitutional requirements of accountability and transparency. We must take a position of principle as some of the issues we have been faced with previously and may have been inconsistent to the current approach. May God bless members and the people of this country with peace and prosperity. I thank you.

*IsiXhosa*:

USEKELA SIHLALO WE-NCOP: Nkosi Sikelel’ iAfrika.

*English*:

Hon Londt, you can be an entire caucus even if you are just one. Hon Labuschagne, you may continue with the debate.

Mr J J LONDT: At least, there will be no disagreements in that caucus, Deputy Chair. [Laughter.]

Ms C LABUSCHAGNE: Hon Chair, I want to start off by expressing our thanks and gratitude to all the personnel that makes it possible for us to do our part of parliamentary work. The Committee Sections, the Chamber staff, the translators and interpreters, the Hansard reporters, the office of the Chief Whip, the Presiding Officers as well as all other supporting sections, thank you for your support and willingness in our effort to uphold Parliament, in this case the NCOP, as an institution. A special word of thanks to my DA colleagues and support staff for your dedication, hard work and willingness to go an extra mile.

Our sincere condolences and empathy to every person who lost a member of their family or other loved ones, also to those who experienced other difficult life challenges. Before I highlight a few concerning aspects of the past year, I would like to wish everyone a safe and blessed festive season with your families and loved ones. I hope it will be a time to rest and re-energize, to deal with all our challenges in 2023. As we come to the end of the Parliamentary Year 2022, most members in this House will go on a well-deserved break with

the belief that this year has brought substantial change to the people they represent.

Indeed, on the face of it, it may seem that way, we ventured out to our provinces in Provincial Week. we had one week of Committee Oversight and had a two-day talk shop on local government. We established a joint Ad Hoc Committee for oversight in KwaZulu-Natal over the floods spending. We had a number of interventions that have been dealt with and we listened to the people of the Ugu District Municipality about their issues on Taking Parliament to the People. Their issues many and many promises were made to rectify them, as we do every year.

The year 2022 will be remembered for many things, issues that matters to people’s lives, their children’s lives and their future. The issue for the majority of people in our country is to fight a daily life of poverty, to find a job, to put food on the table, to build a family life with dignity and opportunity, issues mandated by the Constitution, that should be the focus of Parliament, including the NCOP. Unfortunately, with the amount of failures of the ruling party, most of the programmes and initiatives to address these issues are what

they are, plans and promises with no urgency and political will to implement them.

The DA understands the importance of implementation and honest evaluation thereof. It is the most crucial factor that can change people’s lives for the better and that is what happens where we govern. So while we go on a well-deserved break, we cannot hide the truth that the residents of Ugu District Municipality will this festive season wonder when will all those promises made on Taking Parliament to the People come to fruition.

If only the residents could drink promises or if 15 years of turn around strategies could erase stage six of load shedding or the SA Social Security Agency and Postbank ongoing fiasco, or the looming lawlessness to mention only a few. In 2023, I implore the Presiding Officers to not allow another instance where this House has to process a vital piece of legislation within the ambit of our democracy, and we are reduced to a mere rubber stamp of the NA. It cannot be allowed that this House is pressurized to process a Bill within one month with the magnitude of the Electoral Amendment Bill, or the Anti- Money Laundering and Combating Terrorism Financing Bill or the

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill.

Since November this year, this House resolved Rule 218(1) which provides inter alia that the consideration of a Bill may not commence before at least three working days have lapsed since the committees report was tabled. This was done four times, namely on 23 and 29 November as well as on 6 Dec and today. I cannot begin to understand how this House can follow its legislative mandate fully, with proper public participation and expert’s evaluation, within one month. I am aware that this might not be seen as the fault of our Presiding Officers, but you see, again this is where we differ.

It is clear that the majority in this House actually does not really believe in accountability, and that is the reason why they will believe that it is not their fault. But strong leaders need to stand up, get their hands dirty and fight from time to time. Our Presiding Officers need to clearly lay down the law to their NA colleagues, providing them with clear deadlines to meet. It cannot be that this House be reduced to a mere rubber stamp due to the failures and side stepping of

accountability of leadership. But then again it seems this is a trickle-down effect from the highest office in this country.

And we have not forgotten that this year’s Question Session to the President was deferred and we expect the President, if he is still in the position next year to come to this august House twice to fulfil his duties to this House. And we expect the Presiding Officers to ensure that this occurs.

It would be remiss if I did not acknowledge the push by the House and some of us in the Whippery for the return to the Chamber of the NCOP in a physical capacity. It is imperative that we do not stop with this progress though, and that next year we return to a state of preCovid-19 sittings.

In conclusion I would like to thank not only those in my party benches, but those in this House who have worked tirelessly to bring about effective change within your provinces. We should not forget that we do serve the people first, and instances like our visit to the Ugu District Municipality where we have to hold the Executive to account in delivering the basic services to our citizens or we have failed in our mandate. I would like to end off with a quote by Winston Churchill:

However beautiful the strategy, you should occasionally look at the results.

I thank you.

Mr M DANGOR: Hon Deputy Chairperson, hon members, distinguished special delegates, fellow South Africans, ladies and gentlemen. As we mark the end of the year 2022, we do so cognisant of its significance in the political calendar of our country and the international body politic. It is a year that marks the 110th anniversary of the ANC, the oldest premier liberation movement of the people against colonialism and racism in Africa, and equality, peace and justice among the nations of the world.

Indeed, it is with a sense of inspiration that, once more, despite the prophets of doom who have written countless obituaries of this movement, it will assemble in its 55th national conference in the next few days; a conference whose deliberations and outcomes will reshape the political landscape, not only in South Africa, but the entire African Continent and the global community.

Our strategic task of renewal and unity continue to demonstrate day by day the accumulated experience of over 110 years to self-correct, self-reinvent and claim our rightful position as a trusted movement of the people in the battle of ideas for the building of a national democratic society.

Deputy Chairperson, as we close this year which also marks the 28th anniversary of our constitution, we look back with great sense of pride and confident of the better future for all, that ours is not just a constitution for its own sake, but a unifying vision that enjoys the legitimacy and confidence of the democratic majority. More than ever before, more and more of our people across different sectors continues to demonstrate loyalty in our constitution and its institutions, especially the judiciary as the final arbiter in the resolution of disputes.

This we owe to the forebears of our liberation struggle and the architects of our constitution whose lasting vision for a South Africa that is united, democratic, nonsexist, nonracial, peaceful and prosperous society cannot be articulated better than what the late former President Nelson Mandela once said:

I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die.

Hon Chairperson, I am sure we will agree the year under review was one of the most trying and defining in the history of the evolution of our democracy. Never before has our resilience as a nation been put into a great test than by the global outbreak of COVID-19 pandemic, the electricity crisis that continue to disrupt economic recovery and reconstruction and the terrible scourge of gender-based violence.

We take pride in the fact that, despite the human and socioeconomic devastation of these challenges, our people and government never lost hope and resilience. We congratulate our law enforcement agencies for increased capacity to investigate, arrest and successfully prosecute those have committed heinous crimes against our women and girl children as evidenced by the increasing official statistics.

As we stand here today, the National Prosecuting Authority has made significant arrests of many people who sought to enrich

themselves with the personal protective equipment, PPEs at the expense of our people. We salute the Special Investigation Unit, SIU for speedily securing forfeiture orders against those who are facing serious criminal prosecutions for the theft of the public funds meant for the PPEs.

Chairperson, just like the COVID-19 pandemic and gender-based violence, GBV, the current persisting energy crisis in South Africa knows no colour, class, religious faith or gender. The persistence of load shedding and power outages does not only threaten economic recovery and reconstruction, but also the lives and livelihoods of our people, especially the poor, the weak, the vulnerable and the working class.

Whilst there is a consensus that the crisis that continues to face Eskom is mainly structural and historical, new evidence is emerging that points to the existence of sophisticated criminality by organised syndicates whose criminal machinations include among others; the theft and destruction of critical electrical infrastructure, the procurement of low quality coal by greedy officials who connive with criminal syndicates, and other forms of internal and external sabotage.

Deputy Chairperson, as one of our own, a leading member of the ANC National Executive Committee, comrade Joel Netzhitenzhe once pointed out; those who have benefitted undisrupted from the revenue streams of corruption and state capture will not accept the disruption of this revenue stream by lying down.

The killing of whistle-blowers and different forms of sabotage are calculated moves by corrupt patronage networks in defence of their revenue streams.

Whilst we must reaffirm our call on the law enforcement agencies to intensify their fight against these criminals, we need to mobilise our communities across different political, ideological, cultural and religious spectrums to step up mass campaigns against corruption, gender-based violence and crime.

It takes humble effort by each one of us across party political affiliation during the coming constituency period to be in the forefront of reinvigorating community and sector policing forums in our constituencies to focus the attention of our people on these critical challenges. We must identify the hotspots for GVB and other acts of crimes and ensure that people and the police take appropriate measures to ensure the safety and security of all our people, especially women and girl children.

Deputy Chairperson, on this note, allow me to take this opportunity, first to thank the Chairperson of the NCOP. I would also like to thank yourself, the Deputy Chairperson of the NCOP, the House Chairpersons, the Provincial Whips, the Select Committees Chairpersons and the Party whips for your individual and collective wisdom in providing the leadership to this critical institution of our democracy.

The collegiality we have endured is borne out of among others; the free flow of ideas which have entrenched not only mutual trust, but co-operation in elevating national interests above narrow partisan interests. One thing we can collectively pride ourselves for, which was not easy in a multi-party democracy has been to give political voice to everyone irrespective of the discomfort that sometimes come with such voices.

Chairperson to borrow from the old dictum of military science:

The mantle of honour for the victory in any war does not belong to the generals, but the front line troopers who quench their thirst not in Golden jugs but with their blood, sweat and tears in the muddy and thorny battle trenches.

It is for this hon Deputy Chairperson that, on my behalf and indeed we must take this opportunity with humility to confer all the honour of our strides and successes to the hon members of this august House for their undisrupted focus on the task of discharging the core mandate of this august House.

Hon members, I know you may not appreciate how every effort and sacrifices you have made in pursuance of the strategic task of this House have been so valuable. There is no better word to express my personal feelings about how I derive inspiration from the dedication, hard work and selflessness from most of you.

My last word to the Secretary of the NCOP, Adv Phindela and the administration at all levels under the stewardship of the Secretary to Parliament. I am sure you and your team will appreciate that the roughness of the space borne out of the enormity and urgency of the tasks that we have to discharge is such that it does not allow us the comfort to pause and say, thank you for you continued sterling technical support and guidance to our daily our work.

Deputy Chairperson, allow me to conclude by expressing my appreciation to the support staff in my office and the Office

of the Leader of Government Business for their tireless support and dedication. We are confident that this festive season will be on its own a retreat to all of us to refill, re-energise and renew ourselves for the great tasks ahead in 2023. Let us enjoy it to the fullest with our families. I wish all of you, safe journeys back home and other holiday destination, Happy Christmas and Prosperous New Year.

I do this on behalf of the Chief Whip of the NCOP, hon Mohai. I thank you.

The DEPUTY CHAIRPERSON OF THE NCOP: Thank you hon members and thank you hon Dangor on behalf of the Chief Whip. Let me just also add my voice to the voices of those that expressed appreciation to particularly Advocate Phindela and the total administration under his leadership, but also to the to my co- presiding officers for the way we could go operate the to make sure that we steer the ship.

Weaknesses will always be there, but we are addressing it as a collective. And also to all our colleagues, thank you very much, I think in spite of whatever, the National Council of Provinces, succeeded in actually achieving a very high standard and also to maintain that high standard of making

sure that we address issues, that we follow our programmes consistently. And I would agree that we must strive to see how we can have physical meetings next year.

In conclusion, allow me to wish all of you a blessed festive season, but also a Merry Christmas and may return God willing in 2023 more invigorated and ready to perform the task that we have been elected for. Having said that hon delegates, that concludes the business of the day, travel safely.

*Afrikaans*:

Vir die Afrikaanse mense, kom veilig aan en kom veilig terug.

*English*:

Thank you very much.

The Council adjourned at 10:44